IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 10178 of 2001

Between:

D.P.Dastagiri, S/o. Dudekula Nallanna,
R/o. Ankireddypalli Village, Kolimigundla Mandal,
Kurnool District.

..... PETITIONER

AND

1 The Secretary, Vidyut Soudha, Hyderabad.
2 The Chief Engineer (Operation), APCPDCL,
Vidyut Soudha, Hyderabad.
3 The Superintendent Engineer, Assessments/APCPDCL,
D.No.10-3-310/D, II Floor,
Humayunnagar, Hyderabad.
4 The Assistant Divisional Engineer,
Banaganapalle, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue and Writ of Mandamus or any appropriate Writ, Order or Direction directing the Respondents to continue power supply to the petitioner's unit with S.C.No.545, Category III, Ankireddypalli Village, Kurnool District, by declaring the order passed by the 3rd respondent herein in Order No.SEA/HYD/F.KNL-32/SAH 8043/D.No.1101/2000, dt. 31.10.2000 as confirmed by the 2nd respondent herein order No.CE/O/CPDCL/Assess/S.C.No.545/D.No.834/2001, dt.1.5.2001 as arbitrary, illegal and unconstitutional.

Counsel for the Petitioner: MR.T.NAGARJUNA REDDY

Counsel for the Respondents : SMT.M.VINOBHA DEVI

The Court made the following :

O R D E R :

Heard the learned counsel for the petitioner and Sri N.Subba Reddy, learned senior counsel for Smt. M.Vinobha Devi, standing counsel appearing on behalf of the respondents.

The petitioner, who is running a polishing industry, seeks to assail the impugned orders dated 31.10.2000 of the third respondent assessing the amount for pilferage of energy at Rs.4,61,351/-, which was revised by the second respondent as per order dated 01.05.2001 reducing the same to Rs.2,62,240/-, having found certain irregularities during the inspection conducted on 29.05.2000.

The main submission made in this Writ Petition is that in the present case, the authorities have taken working hours as '9', instead of '6' as has been followed in several other similarly situated industries. It is the specific plea that in the neighbouring industry, the authorities have fixed the consumption as '6' hours while assessing the liability.

Having considering the submissions made and on perusal of the material, it is seen that having regard to the findings of fact arrived at by both the authorities in respect of the allegations made against the petitioner, it is not open for this court to reassess or come to any different conclusion on facts, in exercise of powers under Article 226 of the Constitution of India. However, by taking into consideration the fact in regard to the consumption time assessing the same at '9' hours instead of '6' hours, which remained undisputed, the amount as arrived at by the second respondent can as well be reduced by 25%.

The Writ Petition is, accordingly, partly allowed reducing the assessed amount from Rs. 2,62,240/- to Rs. 1,96,680/-. No costs. It is needless to mention that any amounts already paid by the petitioner, shall be given credit to the amount arrived at in this Writ Petition.

(B.Prakash Rao, J.)

20.01.2005.

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice

On Thursday, the twentieth day of January Two thousand and five.

… Registrar

Copy to:

1 The Secretary, Vidyut Soudha, Hyderabad.
2 The Chief Engineer (Operation), APCPDCL, Vidyut Soudha, Hyderabad.
3 The Superintendent Engineer, Assessments/APCPDCL, D.No.10-3-310/D, II Floor, Humayunnagar, Hyderabad.
4 The Assistant Divisional Engineer, Banaganapalle, Kurnool District.

5 Two CD copies.

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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20.01.2005